REMARKS

[0001]   Applicant respectfully requests reconsideration and allowance of all of the claims of the application. Claims 1-37 are presently pending. Claims amended herein are claims 1, 6-9, 11, 20, 27, 33. No claims are withdrawn, cancelled or added herein.

Statement of Substance of Interview

[0002]   The Examiner graciously talked with me—the undersigned representative for the Applicant—on November 13, 2008. Applicant greatly appreciates the Examiner's willingness to talk. Such willingness is invaluable to both of us in our common goal of an expedited prosecution of this patent application.

[0003]   During the interview, I discussed how the claims differed from the cited reference, namely Risan. Without conceding the propriety of the rejections and in the interest of expediting prosecution, I also proposed several possible clarifying amendments.

[0004]   Applicant herein amends the claims in the manner discussed during the interview. Accordingly, Applicant submits that the pending claims are allowable over the cited art of record for at least the reasons discussed during the interview.

Claim Amendments

[0005]   Without conceding the propriety of the rejections herein and in the interest of expediting prosecution, Applicant amends claims 1, 4-9, 11, 20, 27, 33 herein. Applicant amends claims to clarify claimed features. Such amendments

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are made to expedite prosecution and more quickly identify allowable subject matter. Such amendments are merely intended to clarify the claimed features, and should not be construed as further limiting the claimed invention in response to the cited references.

Substantive Matters

Claim Rejections under § 112 2nd ¶

[0006]   Claims 6-12 are rejected under 35 U.S.C. § 112, 2nd ¶. Applicant respectfully traverses this rejection. In particular, the Examiner has indicated on Action p. 2 that there is insufficient antecedent basis for the claimed element "the streaming media". Applicant has amended the claims accordingly and respectfully submits that these rejections are moot. Applicant therefore asks the Examiner to withdraw these rejections.

Claim Rejections under § 101

[0007]   Claims 27-31, 33-37 are rejected under 35 U.S.C. § 101. Applicant respectfully traverses this rejection. In particular, the Examiner has rejected these claims under § 101 as being non-statutory because the claimed system in the preamble is software per se. Applicant has amended these claims to include tangible hardware as part of the system.

[0008]   In light of the amendments presented herein, Applicant respectfully submits that these claims comply with the patentability requirements of §101 and that the §101 rejections should be withdrawn. Applicant further asserts that these claims are allowable. Accordingly, Applicant asks the Examiner to withdraw these rejections.

[0009]   If the Examiner maintains the rejection of these claims, then Applicant requests additional guidance as to what is necessary to overcome the rejection.

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Claim Rejections under § 103

[0010]   The Examiner rejects claims 1-37 under § 103. For the reasons set forth below, the Examiner has not made a prima facie case showing that the rejected claims are obvious.

[0011]   Accordingly, Applicant respectfully requests that the § 103 rejections be withdrawn and the case be passed along to issuance.

[0012]   The Examiner's rejections are based upon the following references alone and/or in combination:

- **Risan et al. 2005/0172309:** *Risan et al. 2005/0172309,* US Patent No. 6,785,885 (issued August 31, 2004);
- **Jennings et al. 2002/0099842:** *Jennings et al 2002/0099842,* US Patent Publication No. 2007/5938503 (Published August 31, 2007); and

Overview of the Application

[0013]   The Application describes a technology for dynamic redirection of streaming media between computing devices. The technology includes listening at an application programming interface for a notification indicating that a change is to be made in a topology of streaming media software components, and when the notification is received, reconfiguring the topology in accordance with the indicated change.

Cited References

[0014] The Examiner cites Risan et al. 2005/0172309 as the primary reference, and Jennings et al 2002/0099842 as a secondary reference, in the obviousness-based rejections.

Risan et al. 2005/0172309

[0015] Risan et al. 2005/0172309 describes a method for providing a media change notification on a computing system. See, for example, Risan et al. at Abstract. The method polls a media device of a computing system for a media change, and generates a media change notification when a media change is detected. Id. The media change refers to, for example, an introduction of media to the media device. See, for example, Risan at al. at paragraph [0211].

Jennings et al. 2002/0099842

[0016] Jennings et al. 2002/0099842 describes a system and method for streaming media to a viewer and managing the media. See, for example, Jennings et al. at Abstract.

Obviousness Rejections

Lack of *Prima Facie* Case of Obviousness (MPEP § 2142)

[0017]   Applicant disagrees with the Examiner's obviousness rejections. Arguments presented herein point to various aspects of the record to demonstrate that all of the criteria set forth for making a prima facie case have not been met.

Based upon Risan et al. and Jennings et al.

[0018]   The Examiner rejects claims 1-37 under 35 U.S.C. § 103(a) as being unpatentable over Risan et al. in view of Jennings et al.   Applicant respectfully traverses the rejection of these claims and asks the Examiner to withdraw the rejection of these claims.

Independent Claim 1

[0019]   Applicant submits that the combination of Risan et al. and Jennings et al. fails to teach or suggest at least the following elements as recited in this claim (with emphasis added):

- "listening at an application programming interface for a notification indicating that a *change* is to be made in a **topology of streaming media software components**"

- "at least one of the topology or the reconfigured topology have: one **streaming media software component located on a computing device**; and *another* **streaming media software component located on another computing device**"
- "when the notification is received, **notifying a media engine**, wherein: the media engine is capable of **reconfiguring the topology in accordance with the indicated change** to form a **reconfigured topology**"

[0020]   The Examiner indicates (Action, p. 4) the following with regard to this claim:

> As to claims 1, 13, 14, 19-20, 27 and 33, Risan teaches the invention substantially as claimed including a method, system and product comprising:
> listening at an application programming interface for a notification indicating that a change is to be made in a topology of streaming media software components (abstract; FIG. 3: 304; FIG. 4; paragraph 97; media change notification couple with update of the Agent (304); where the "agent 304" is the topology); and
> when the notification is received, notifying a media engine (FIG. 3:300; where the "CCM 300" is the media engine), wherein:
> the media engine is capable of reconfiguring the topology in accordance with the indicated change (FIG. 3:304 and paragraph 69; reconfiguration of the topology/agent for maintaining the state changes); and
> at least one of the topology or the reconfigured topology have: one media software component located on a computing device (FIG. 2 and FIG.4; CCM 300 installed on the client device); and another media software component located on another computing device (FIG. 2 and FIG. 4; CCM 300 installed in the server).

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[0021]   The Examiner has equated the "media change" and "agent 304" described in Risan et al. to the "change ... in a topology of streaming media software components" recited in this claim. Applicant respectfully disagrees.

[0022]   Risan et al. describes a method that **polls a media device** of a computing system for a media change wherein the polling of the media device cannot be blocked by the computing system. See, for example, Risan et al. at Abstract. Media change notification occurs when new media is detected in a media device. See, for example, Risan et al. at paragraph [0353]. Nowhere in Risan et al. describes listening for a notification indicating a *change in topology* of **streaming media software components**, reconfiguring the topology in accordance with the indicated change to form a **reconfigured topology** and wherein at least one of the topology or the reconfigured topology have streaming media software components located on different computing devices.

[0023]   Moreover, the "agent 304" cannot be equated to a "**topology** of **streaming media software components**" because it is merely a program which is configured to engage in dialogs and negotiate and coordinate transfer of information. See, for example, Risan et al. at paragraph [0069]. Even if "agent 304" is equated to a "topology", the media change notification in Risan et al. does not indicate a change in the "agent 304." As discussed previously, the media change notification in Risan et al. only indicates a change in media inserted in a media device.

[0024]   Further, the Examiner has equated the "copyright compliance mechanism (CCM) 300" described in Risan et al. to the "**media engine**" recited in this claim. See Action p. 4. Applicant respectfully disagrees. Nowhere in Risan et al. teaches or suggests that CCM 300 is capable of reconfiguring "agent 304" in accordance with a "media change," as required by this claim. Risan et al. merely describes the media change notification triggering the initial installation of the CCM 300, which serves to control the distribution of, access to, and/or copyright compliance of media files. See, for example, Risan et al. at paragraphs [0054] and [0353].   The CCM 300 includes agent programs that can be configured to **maintain** system states (at paragraph [0069]), but nowhere in Risan et al. teaches or suggests that the CCM 300 is capable of *reconfiguring* **a topology of streaming software components** in accordance with an **indicated change** to form a *reconfigured topology*.

[0025]   Jennings fails to compensate for the defects of Risan et al. Therefore, as shown above, the combination of Risan et al. and Jennings et al. does not teach or suggest all of the elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

Dependent Claims 2-13

[0026]   These claims ultimately depend upon independent claim 1.   As discussed above, claim 1 is allowable.   It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable.   Additionally,

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some or all of these claims may also be allowable for additional independent reasons.

[0027]   For example, with respect to claims 5-8, the Examiner asserts (on Action p. 5) that Risan et al. teaches "wherein the change includes at least one of adding or removing one or more streaming media components to the topology." Applicant respectfully disagrees. Although Risan et al. teaches media player applications with or without recording functionality (see Risan et al. at paragraph [0056], cited on Action p. 6), it is unclear how this can be equated to the features recited in claim 5. The "media change" in Risan et al. does not include a change relating to adding or removing media player applications. Rather, as discussed previously, the "media change" in Risan et al. relates to new media being detected in a media device. See, for example, Risan et al. at paragraph [0353]. Jennings et al. also fails to compensate for the defects of Risan et al. Therefore, Applicant respectfully requests the Examiner to withdraw the rejection of this claim

Independent Claims 14, 20, 27 and 33

[0028]   Applicant submits that Risan et al. and Jennings et al., alone or in combination, do not teach or suggest the features in these claims. For example, as discussed previously, Risan et al. neither teaches nor suggests listening for a notification indicating that a change is to be made to a first topology of software components, and reconfiguring the first topology in accordance with the indicated change to form a second said topology. Risan et al. only teaches

monitoring a "media change," which relates to a change in media inserted in a media device, and not a change in "topology." See, for example, Risan et al. at paragraph [0353]. Therefore, Applicant respectfully asks the Examiner to withdraw rejection of these claims.

Dependent Claims 15-19, 21-26, 28-32, 34-37

[0029]   These claims ultimately depend upon independent claims 14, 20, 27 or 33.   As discussed above, claims 14, 20, 27 and 33 are allowable.   It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable.   Additionally, some or all of these claims may also be allowable for additional independent reasons.

Dependent Claims

[0030]   In addition to its own merits, each dependent claim is allowable for the same reasons that its base claim is allowable. Applicant requests that the Examiner withdraw the rejection of each dependent claim where its base claim is allowable.

Conclusion

[0031]   All ending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application.   If any issues remain that prevent issuance of this application, the **Examiner is urged to contact me before issuing a subsequent Action**.   Please call or email me at your convenience.

Respectfully Submitted,

Lee & Hayes, PLLC
Representatives for Applicant

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